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10-09-15
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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of California-American Water
Company (U210W) for Approval of the Monterey
Peninsula Water Supply Project and
Authorization to Recover All Present and Future
Costs in Rates.

A.12-04-019
(Filed April 23, 2012)

**CALIFORNIA-AMERICAN WATER COMPANY'S RESPONSE TO WATER PLUS'
MOTION TO DISMISS**

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Date: October 9, 2015

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I. INTRODUCTION

In accordance with Rule 11.1(e) of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission") and the Administrative Law Judge's e-mail ruling issued on October 9, 2015,¹ California-American Water Company ("California American Water") submits this response to the *Motion to Dismiss the Proceeding on the Monterey Peninsula Water Supply Project Because of Data Tampering* ("Motion"), filed by Water Plus on October 1, 2015. Water Plus fails to provide support for its baseless and irresponsible dismissal request. Not only does the Motion display a fundamental lack of understanding of hydrogeological analysis, it unfairly denigrates the work of the Commission and its environmental consultants. In light of the pressing need to develop a new water supply for the Monterey Peninsula, Water Plus's suggestion that the Commission dismiss this proceeding is short-sighted and irrational. The Commission should disregard Water Plus's meritless allegations and deny its motion to dismiss California American Water's Application 12-04-019.

¹ *Administrative Law Judge's Ruling Regarding Responses to Water Plus Motion to Dismiss*, issued on October 9, 2015.

II. BACKGROUND

In its Motion, Water Plus makes two claims to justify its request that the Commission dismiss this proceeding. First, Water Plus accuses Geosciences Support Services (“Geosciences”) of tampering with data used in groundwater modeling. Geoscience is one of the consultants contracted by the Commission to review the environmental impacts of the proposed slant well intakes for the Monterey Peninsula Water Supply Project (“MPWSP”) desalination plant. The consultants used predictive ground water modeling to evaluate the impacts of the slant wells on local groundwater levels over the long-term and tested how well the model could predict actual outcomes. In its Motion, Water Plus accuses Geosciences of tampering with the data to make the model results appear to better fit the actual results of water elevation measurements.² Second, Water Plus argues that the Commission’s involvement with the MPWSP is not “appropriate” and increases “the opportunity for fraud.”³ As discussed in more detail below, both claims are unfounded and do not justify the Water Plus’s radical request to dismiss this proceeding.

III. DISCUSSION

With respect to its claims regarding data tampering, Water Plus’s Motion appears to demonstrate a fundamental lack of understanding of hydrogeological analysis. Water Plus does not have the expertise to assess the hydrogeological analysis, nor does it provide a creditable expert witness to defend its statements. Moreover, any discussion of the modeling underlying the environmental impact review should be conducted as part of the California Environmental Quality Act (“CEQA”) process. The Hydrogeological Working Group, which is comprised of top

² Motion, p. 7.

³ Motion, p. 1, 8.

experts in the field of hydrology, will independently assess the groundwater model, and, to the extent that assessment is included into the final CEQA document, the work will be further peer reviewed.⁴ The Commission will take the views of these experts well as other stakeholders into consideration and will ultimately decide what weight to afford Geosciences' evaluations as part of the CEQA process. That determination will then inform the Commission's evaluation of the MPWSP under CEQA and whether it should issue a CPCN to California American Water for the desalination plant and related facilities. There is no basis for the Commission to dismiss the application outright based on Water Plus' unfounded accusations.

In its comments regarding Commission oversight of the MPWSP application process, Water Plus conveniently ignores the Commission's legal jurisdiction over California American Water and its projects.⁵ California American Water is also troubled by Water Plus's unfounded accusations against Commission and its consultants. In addition to its unjustified allegation of data tampering, Water Plus argues that Commission regulation in this area increases the opportunity for fraud.⁶ These types of statements demean the decade-plus work of the

⁴ See Administrative Law Judge's Ruling Extending Briefing Schedule, Attachment, Energy Division Notice issued on July 9, 2015 ("We are considering options to independently evaluate the accuracy and credibility of that work, including but not limited to entering into a contract with a neutral third party to review that work; and/or opening up that work to review by the parties to this proceeding, or by the public at large."); *see also* Energy Division Notice issued on September 8, 2015 (stating that "We have begun the process of engaging such a neutral third party to peer review Geoscience's work...and further anticipate incorporating the resulting peer review into the recirculated DEIR/DEIS.").

⁵ See Cal. Const. art. XII, § 3 ("Private corporations and persons that own, operate, control, or manage a line, plant, or system for the...furnishing of heat, light, water, power, storage, or wharfage directly or indirectly to or for the public, and common carriers, are public utilities subject to control by the Legislature."); Pub. Util. Code §701 (The [PUC] may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction."); Pub. Util. Code §451 ("All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful.").

⁶ *Id.* at 8.

Commission, its staff and its consultants to assist in developing a vitally-needed long-term water supply solution for the Monterey Peninsula. In particular, this lengthy proceeding has offered multiple opportunities for a wide variety of participants (including Water Plus) to weigh in on this important issue. Water Plus's groundless statements regarding the Commission's involvement provide no justification for dismissing this proceeding.

Finally, Water Plus's Motion irresponsibly ignores the Monterey Peninsula's pressing need to find a replacement water source as the State Water Resources Board's Cease and Desist Order approaches. Indeed, the Commission has previously denied a motion to dismiss⁷ Application 12-04-019 because of the overarching public interest in securing a source of water for the Monterey Peninsula. The Commission stated,

I deny the motion to dismiss because there is good cause for the Commission to proceed with an examination of the Monterey Peninsula Water Supply Project proposed in A.12-04-019. The people and entities in the Monterey Division service area of the Applicant face the risk of losing -- in less than five years -- most of the water supply that presently serves them... Given the overarching public interest in finding a source or sources of replacement water for the Monterey Peninsula as soon as practicable, it is reasonable to proceed with A.12-04-019.⁸

The public interest in ensuring that the Peninsula has an adequate water supply has not diminished, and the Commission should deny the Motion and allow the relevant experts to evaluate the groundwater model as part of the CEQA process.

⁷ See Marina Coast Water District's Motion to Dismiss A.12-04-019, filed April 30, 2012.

⁸ Administrative Law Judge's Ruling, filed June 1, 2012, p. 2.

IV. CONCLUSION

The Commission should disregard Water Plus' unfounded accusations and deny its motion to dismiss California American Water's Application 12-04-019.

Date: October 9, 2015

By: /s/ Sarah E. Leeper

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